

## REMARKS

Applicants sincerely appreciate the thorough examination of the present application, as evidenced by the Office Action of April 16, 2008. Applicants have carefully reviewed the cited references and have amended the claims extensively to clarify their patentability. Applicants respectfully submit, for the reasons explained below, that the application is in condition for allowance, which is requested.

### Status of the Claims

Claims 1-10 stand rejected under 35 USC § 103(a) as unpatentable over U.S. Publication No. 20020037735 to Maggenti et al. ("Maggenti") in view of Maintenance for Definity One Communication System Release 10 (BSP 555-233-130) ("BSP"), further in view of Definity Business Communications System and GuestWorks Overview (BSP 555-231-208) ("BSP2") and further in view of Definity Fault Management User Guide Release 2 (BSP 585-229-808) ("BSP3"). Claims 1, 2 and 7-10 have been amended.

### The Claims Are Patentable Over the Cited References.

#### A. Introduction

To establish a *prima facie* case of obviousness, three criteria must be met. First, the prior art reference or references when combined must teach or suggest all the recitations of the claims. M.P.E.P. §2143. Furthermore, as recently stated by the U.S. Supreme Court, *KSR International Co. v. Teleflex Inc., et al.*, 550 U.S. 1, 14 (2007), there must be some reason to combine the references in a way that produces the claimed invention, and a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. Finally, as set forth in MPEP § 2143, there must be a reasonable expectation that the modification will be successful. The teaching or suggestion to modify the references, as well as the reasonable expectation of success, must be found in the prior art and not based on the Applicant's disclosure.

Failure to meet any one of these criteria -- a teaching or suggestion of all claimed elements, a reason to combine or modify the references, and a reasonable expectation of success -- is sufficient to render an obviousness rejection improper. Furthermore, As noted by Supreme Court in *KSR Int'l Co. v. Teleflex Inc.*, when the prior art teaches away from combining certain

known elements, discovery of a successful means of combining them is more likely to be nonobvious.

B. Claims 1-6 are Patentable Over the Cited References

Claim 1 is directed to methods of providing communications services. The methods include determining a state of an Internet Protocol communications device, and reconfiguring call routing information based upon the state of the Internet Protocol communications device.

The Office Action cites Maggenti paragraphs 0108-0112 as disclosing the claimed recitations of determining a state of an Internet Protocol communications device. Office Action at 2. The Office Action further states that BSP discloses means for reconfiguring the routing of a call after the state of the communication device has been determined. Office Action at 3.

Applicants have reviewed the cited passage of Maggenti, and note that the cited passage discuss operations of a push-to-talk (PTT) communications device (e.g., a device that functions like a walkie-talkie) connected in an IP communications network. See Maggenti, paragraphs 0030-0031. Furthermore, the cited passage of Maggenti describes various states of the PTT communications device that occur when the communications device is connected to a network broadcast system. Namely, the PTT communications device "cycles from a quiet state 516, a listen state 520, a talk state 524 and a dormant state 528 based on where the user is in the push-to-talk system as described with respect to FIG. 16." Maggenti, para. 0112. Maggenti Figure 10 illustrates that the PTT communications device transitions between these states based on various conditions, such as activity on the network and the state of the PTT button on the device.

BSP discloses maintenance commands for a Definity One Communications System. In particular, BSP discloses a "status station" command, which displays internal software state information of a VoIP station for diagnosis purposes. See BSP, page 5-229. BSP discloses that one field displayed in response to the command is "CF Destination Ex", which corresponds to the call forwarding destination, if any, that is set for the station.

The combination of Maggenti is unsupported because there is no reason to combine the references in the manner suggested by the Office Action. The Office Action states that the reason to incorporate the teachings of BSP into Maggenti is "because BSP is the Programming Instructions of VoIP hardware like in Maggenti." Office Action at 3. However, this rationale ignores the actual teachings of Maggenti relating to the state of the communications device,

which, as noted above, is a push-to-talk device. The "states" described in Maggenti (quiet, listen, talk and dormant) relate to the state of the PTT button on the device and whether or not the device is actively receiving communications from other devices. There is no reason whatsoever why a user would want to change a call forwarding setting, such as the setting described in BSP, based on whether or not a PTT button on a walkie-talkie is pressed, or whether the device is receiving communications from other PTT devices, particularly since Maggenti expressly discloses that voice services calls can be received and placed while group (i.e., PTT) services are enabled and activated. See Maggenti, para. 0232.

Moreover, if a modification to Maggenti were made so that the PTT device would be placed into a call forwarding mode based on the states described in Maggenti para. 0112, it would destroy functionality of the Maggenti device. Namely, it would defeat the feature of permitting voice services calls to be received and placed while group (PTT) services are enabled and activated. Maggenti therefore teaches away from the modification suggested by the Office Action.

Furthermore, Claim 1, as amended, recites as follows:

1. A method of providing communications services, comprising the steps of:

determining a state of an Internet Protocol communications device by transmitting a message from a communications module through a Voice-Over Internet Protocol communications network to an Internet Protocol communications device to determine if a signaling path to the Internet Protocol communications device exists in the Voice-Over Internet Protocol communications network;

determining that the signaling path fails to exist in response to a failure to receive a response to the message from the Internet Protocol communications device; and

reconfiguring call routing information relating to the Internet Protocol communications device in response to determining that the signaling path fails to exist, so that an incoming call in the Voice-Over Internet Protocol communications network addressed to the Internet Protocol communications device is routed to an alternate communications device instead of to the Internet Protocol communications device.

Applicants respectfully submit that Neither Maggenti nor BSP discloses at least the above-underlined recitations of Claim 1. Namely, neither Maggenti nor BSP teaches or suggests reconfiguring a setting, much less reconfiguring call routing information relating to the Internet Protocol communications device in response to determining that the signaling path fails to exist,

so that an incoming call in the Voice-Over Internet Protocol communications network addressed to the Internet Protocol communications device is routed to an alternate communications device instead of to the Internet Protocol communications device. Therefore, even if combined, Maggenti and BSP do not teach or suggest each and every recitation of Claim 1.

Claim 1 is therefore patentable over Maggenti in view of BSP, and the rejection of Claim 1 should be withdrawn.

Dependent claims 2-6 are patentable at least based on their dependence on Claim 1. Accordingly, Applicants do not believe that it is necessary to argue the allowability of each dependent claim individually. Applicants do not necessarily concur with the interpretation of these claims, nor with the bases for rejection set forth in the Office Action. Applicants therefore reserve the right to address the patentability of these claims individually as necessary in the future.

C. Claims 7-10 are Patentable Over the Cited References

Claim 7, as amended, recites as follows (emphasis added):

7. A method of providing communications services, comprising the steps of:

polling an Internet Protocol communications device to determine if a signaling path exists in a Voice-Over Internet Protocol communications network; and

if the signaling path fails to exist, then reconfiguring call routing information for calls addressed to the Internet Protocol communications device so that an incoming call in the Voice-Over Internet Protocol communications network addressed to the Internet Protocol communications device is routed to an alternate communications device instead of to the Internet Protocol communications device based upon at least one of i) network-defined logic and ii) subscriber-defined logic, wherein the call routing information is reconfigured based upon an availability of the Internet Protocol communications device.

The Office Action states that Claim 7 is obvious over Maggenti in view of BSP, further in view of BSP2 and further in view of BSP3. As noted above, BSP describes a "status station" status command. BSP2 discusses call vectoring methods in a business telephone system, such as a call center. BSP3 describes proxy agent icon states. None of these references discloses or suggests at least the underlined recitations of Claim 7. Claim 7 is therefore patentable over the combination of Maggenti, BSP, BSP2 and BSP3.

Claims 8-10 include similar recitations as Claim 7, and are patentable at least for similar reasons as Claim 7.

### CONCLUSION

In light of the above remarks, Applicants respectfully submit that the above-entitled application is now in condition for allowance. Favorable reconsideration of this application, as amended, is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the undersigned representative at the telephone number indicated below to discuss any outstanding issues relating to the allowability of the application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Hall', with a stylized flourish at the end.

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